

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

In re: James and Tena Marie Borchardt,	}	
	}	
Debtors.	}	Case No: 09-37769

FIFTH AMENDED CHAPTER 12 PLAN

1. The future earnings of the debtors are submitted to the supervision and control of the Trustee as necessary for the execution of this plan
2. The debtors shall pay to the Trustee the monthly sum of \$2,842.00 for 36 months followed by \$4,456.00 for 24 months for payment of administrative expenses and to creditors as set forth below. The total amount to be paid under this plan is \$209,256.00.
3. The Trustee fee shall be set at the statutory rate as determined by the Office of the U.S. Trustee from time to time, not to exceed 10% of funds received for distribution.
4. All payments to the trustee as well as direct payments described below to Richland Cattle Corp. and Farmers & Merchants Bank shall be made by a milk assignment paid twice monthly.
5. Current milk assignments for payments to Theresa Mutual Insurance and Brian Moldenauer for current feed expense shall continue.
6. The amounts listed for claims in this Plan are based upon either claims filed or debtors' best estimate and belief. Creditors may file a proof of claim in a different amount. Objections to claims may be filed before or after confirmation.
7. For purposes of this Plan, the Plan controls the amount of the debt, amount of arrearage, replacement value and interest rate on claims.
8. All taxes and insurance premiums will be paid when due.
9. **Administrative claims:** The trustee will pay in full allowed administrative claims and expenses pursuant to 507(a)(2) as set forth below, unless the holder of such claim or expense has agreed to a different treatment of its claim.
 - a. **Trustee fees:** Trustee fees: payable on disbursements as made by the trustee. A total of \$20,925.607 is estimated to be payable to the Trustee pursuant to this plan at the current rate as set by the U.S. Trustee's Office..

b. Richland Cattle Corp.
24321 State Hwy 58
Richland Center, WI 53581

Amounts borrowed post-petition in the amount of \$50,000 @ 10%, secured by cattle; to be paid in the amount of \$1,613.36/month during months 1-36. Payments to be paid **directly** by debtors through a milk check assignment.

All cows purchased from Richland Cattle Corp. will be identified by metal ear tags and freeze brand (RCC). All off-spring from said cattle will be property of the debtor.

c. Redfield Law Offices, LLC
PO Box 847
Stevens Point, WI 54481

Legal fees and costs: \$16,500 - estimated total of which \$4,500 was paid as initial retainer prior to filing; interim bills to be approved by Court. The first interim bill was approved by the Court in the amount of \$5,917.41. This amount shall be paid in months 1-3 of the plan.

10. Secured Claims:

a. Farm Services Agency
451W North St.
Juneau, WI 53039-11

Total claim is \$504,856.75, secured by debtors' real and personal property; annual payment in plan is \$43. The Farm Service Agency shall retain all of its interests and liens with respect to its security interest in the debtors' personal property, including all livestock offspring that is acquired post-petition. All provisions of the promissory notes, mortgages and security agreements which debtors have with the Farm Service Agency are incorporated herein as though fully set forth except as the same may be inconsistent with the terms of this Plan. The debtors agree that they will comply with the Farm Service Agency's servicing requirements that include security inspections, balance sheets, income statements, and future projections.

The disposition of any personal property shall be with prior permission of the Farm Service Agency. Any disputes as to the disposition of personal property and the use

of proceeds which cannot be agreed between the parties shall be determined by the Court.

**b. Farmers & Merchants Bank
405 Jewel St.
Juneau, WI 53039**

Principal and interest on the claim total \$26,637.48 as of May 1, 2010, secured by a lien on debtors' real property. The claim will be paid in full on its contract terms, including late fees and creditor's attorneys fees, except as specifically modified by this plan of reorganization. Balance and monthly payments will be calculated at the time of confirmation; payments are estimated at \$206.52, to be paid directly by debtors through a milk check assignment; payment represents a 20-year amortization at 7%. There will be a balloon payment of the balance due after 10 years. The interest rate of 7% will be in effect for the first three years of the plan. After the third year, the rate will be adjusted to the Wall Street Journal Prime plus 4% and will be adjusted semi-annually. The monthly payment will change with the rate in order to maintain the original 20-year amortization date.

**a. Richland Cattle Corp.
24321 State Hwy 58
Richland Center, WI 53581**

Total claim is \$12,271.51, secured by cattle, monthly payment proposed to be paid through plan is approximately \$340, including interest at 10%; 100% paid in months 3-23 of plan.

**c. Dodge County Treasurer
127 E Oak St
Juneau, WI 53039-1390**

Total owed is \$6,104.61 for 2007 and 2008 real estate taxes to be paid at 100%, including interest at 18% in months 3-23 through plan; 2009 taxes are included as current farm expenses

d. Kreilkamp Finance
6487 Hwy 175
PO Box 268
Allentown, WI 53002

Total claim is \$21,500.00, secured by equipment; monthly payment proposed to be paid through plan is approximately \$1,814.00, including 6% interest; 100% paid in months 3-23 of plan

e. Wachovia Dealer Services
PO Box 25341
Santa Ana, CA 92799-5341

Total claim is \$7,163.86, secured by 2000 Ford F250; monthly payment proposed to be paid through plan is approximately \$550.00, 100% paid in months 3-23.

f. Lindert Concrete & Construction, LLC
W1447 Zion Concrete Road
Mayville, WI 53050

Total claim is a Dodge County Judgment lien in the amount of \$4,845.47 (08SC1803) docketed on December 4, 2008. The lien will be avoided and the claim treated as an unsecured, non-priority debt.

g. Watertown Memorial Hospital
123 Hospital Drive
Watertown, WI 53098

Total claim is a Dodge County Judgment lien in the amount of \$309.84 (07SC2006) docketed on April 17, 2009. The lien will be avoided and the claim treated as an unsecured, non-priority debt.

h. Caine Petroleum & Equipment Company, Inc.
PO Box 376
Lowell, WI 53557

Total claim is a Dodge County Judgment lien in the amount of \$1,905.69 (09SC0376) docketed on May 22, 2009. The lien will be avoided and the claim treated as an unsecured, non-priority debt.

- i. Aqua Well & Pump Systems, Inc.**
PO Box 187
North Prairie, WI 53153-0187

Dodge County Judgment lien in the amount of \$3,476.01 (2000CL0262) docketed on April 7, 2000. The lien will be avoided. Note: this debt was listed in debtors' prior Chapter 7 bankruptcy, but the lien was not avoided at that time.

- j. United Cooperative**
N7160 Raceway Rd.
Beaver Dam, WI 53916

Dodge County Judgment lien in the amount of \$1,409.66 (09SC1961) docketed on December 21, 2009. The lien will be avoided and the claim treated as an unsecured, non-priority debt.

- k. Cargill Inc. – Nutrena Feed Division**
411 South Pearl Street
Janesville, WI 53547

Rock County Judgment in the amount of \$3,476.01 (94CV688) docketed on April 7, 2000. Any lien will be avoided. Note: this debt was incurred prior to debtors' prior Chapter 7 bankruptcy but was not listed.

- l. Tri-County Dairy North**
424 Water Tower Ct.
Watertown, WI 53094

Jefferson County Judgment in the amount of \$1,925.49 (02SC1465) docketed on April 7, 2000. Any lien will be avoided. Note: this debt was incurred prior to debtors' prior Chapter 7 bankruptcy and was listed.

11. Special class of unsecured non-priority debts to be paid as necessary to the continuing operation of debtors' farming operation. The following unsecured debts shall be paid at approximately 100% of amounts due and owing. Any remaining balances shall be added to item 10. below and paid along with other unsecured creditors.

- a. Maedex Tax & Farm Accounting LLC**
JoAnn Maedke E.A.
N44449 Northview Rd
Eden, WI 53019-1301

Claim filed for \$13,123. Plan to pay approximately \$13,123.00 in months 23-56.

**b. Universal Cooperative Assoc.
N1754 Cty R Box 9
Lebanon, WI 53047**

Claim filed for \$39,361.31. Plan to pay approximately \$39361.31 in months 23-56.

**c. Waterloo Veterinary Clinic
801 Canal Road
Waterloo, WI 53594**

Claim filed for \$14,629.13. Plan to pay approximately \$14,629.13 in months 23-56.

**d. Brian Moldenhauer
N5447 Astor Road
Iron Ridge WI 53035**

Claim filed for \$45,789.83. Plan to pay approximately \$45,789.83 in months 23-56.

12. Executory contracts:

The debtor assumes the outstanding contracts as follows:

a. Milk Income Loss Contract (MILC) with the United States Department of Agriculture, Dodge County Farm Service Agency, Juneau Service Center, 451 W. North Street, Juneau, WI 53039-11120, entered into on 12/30/08 (copy attached).

b. Direct and Counter-Cyclical Program (DCP) contract for farm #9995 signed on February 12, 2010. (copy attached)

c. Ongoing agreement with Bis-Nass Enterprises, LLC, for sale and buy back of heifers. (copy attached)

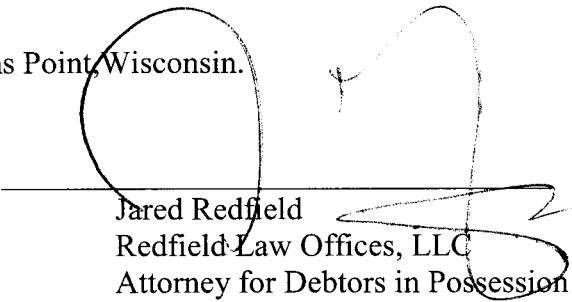
13. Unsecured creditors:

Unsecured creditors who file claims that are approved by the Court shall receive payments based upon the available cash flow after the scheduled payments have been made. At this time, it is anticipated that there may be some payments to general unsecured creditors in months 57-60 of the plan..

14. Administrative:

- a. All payments made under the plan shall be made to the Trustee in the form of assignments from debtors' milk checks. Payment to the Trustee shall constitute payment to the creditors for the purpose of calculating any interest.
- b. The Trustee shall deduct from payments to the Trustee, the fee which is set, from time to time by the Court or the United States Trustee Office. Regardless of any other provision of the plan, the Trustee shall make payments only to creditors holding timely filed and allowed claims.
- c. Confirmation of the plan shall vest in the Trustee the right, without regard to prior proceedings prosecuted or defended by Debtor, to (1) object to claims and (2) continue or bring actions under 11 USC Sections 544, 545, 547, 548 or 553. Payments provided herein for claims which are not allowed or are disallowed and any avoidance recovery shall be distributed to priority and general unsecured creditors as provided under the plan.
- d. The debtor will provide to the Trustee, (1) monthly activity reports within 15 days after the end of each month, (2) annual statements within 60 days after the end of each plan year and (3) copies of timely filed Federal Income Tax returns within 30 days of filing and, upon demand, (4) any other records which should be kept in the ordinary course of debtor's business.
- e. The effective date of the plan shall be August 1, 2010. The first payment shall be due August 15, 2010.

Dated this 24th day of May, 2010, at Stevens Point, Wisconsin.



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